

**Tuolumne Stanislaus IRWMP
Proposition 84 Planning Grant Proposal
*Attachment 2: Eligible Applicant
Documentation***

The Tuolumne Utilities District (TUD) is applying for this Proposition 84 Integrated Regional Water Management (IRWM) Planning Grant on behalf of the Tuolumne-Stanislaus IRWM Region (T-S Region). The Memorandum of Understanding (MOU) of the T-S Region found included in Appendix A of Attachment 3: Work Plan, authorizes TUD to act as the program administrative agency on behalf of the T-S Region. As requested in the Proposition 84 IRWM Planning Grant Proposal Solicitation Package (PSP), the following written statement substantiates TUD as a Local Agency as defined by the Proposition 84 & Proposition 1E IRWM Guidelines (Guidelines).

Is the applicant a local agency as defined in Appendix B of the Guidelines? TUD is a local agency because it is a public utility defined in Sections 216 of the Public Utilities Code.

What is the statutory or other legal authority under which the applicant was formed and is authorized to operate? As described in Resolution 2-92 that follows, the applicant, TUD, was formed on 1 July 1992 following the consolidation of the water, sewer and hydroelectric assets of Tuolumne County's Tuolumne Water System and the Tuolumne Regional Water District. The consolidation was submitted to the Tuolumne County Local Agency Formation Commission (LAFCO) by the Boards of both predecessor agencies and approved by the voters of Tuolumne County. TUD, the resulting agency, was formed under the County Water District Law (Division 12 Sections 30000-33554 of the Water Code).

Does the applicant have legal authority to enter into a grant agreement with the State of California? As described in Attachment 1: Authorizing Documentation, Item 4 of the MOU found in Appendix A of Attachment 3: Work Plan states "The Tuolumne Utilities District

(TUD) shall serve as the administrative agency for this MOU, to provide appropriate services in support thereof, and to receive, disburse, and account for funds related to this MOU as provided in the Financial Agreement. The TUD shall be responsible for any necessary financial reporting under this MOU, including reports needed to comply with the terms of any grant agreement." In addition, the resolution contained in Attachment 1: Authorizing Documentation authorizes TUD's General Manager to apply for a grant and enter into grant agreement with the State of California.

Describe any legal agreements among partner agencies and/or organizations that ensure performance of the Proposal and tracking of funds? Item 2 of the MOU located in Appendix A of Attachment 3: Work Plan is entitled "Development of an IRWMP Proposition 84 Grant application" and states: "The parties agree to support and pursue the development, submission and servicing of a Planning Grant Application for an Integrated Regional Water Management Plan for the upper Stanislaus and Tuolumne watersheds... The Parties will support the process and tasks necessary to develop and submit a Proposition 84 IRWMP Planning Grant with the intention to ultimately work cooperatively on the development of an upper Stanislaus and Tuolumne watershed IRWMP Plan..."

Appendix A of Attachment 3: Work Plan also contains a Financing Agreement (Appendix B of the MOU) which states that "The Tuolumne Utilities District will act as the Administering Agency and maintain financial records for the IRWMP and act as the paying agency for all costs incurred..."

RESOLUTION NO. 2-92
TUOLUMNE UTILITIES DISTRICT
ADOPTING AND ACCEPTING
TUOLUMNE COUNTY/TRWD AGREEMENT CITED IN LAFCO ORDER
FOR MEASURE A REORGANIZATION

BE IT RESOLVED, by the Board of Directors of Tuolumne Utilities District as follows:

Section 1. The Agreement by and between Tuolumne Regional Water District and Tuolumne County Supervisors is hereby adopted and a copy is attached hereto.


PASSED AND ADOPTED by the Board of Directors of Tuolumne Utilities District on July 1, 1992, by the following vote:

AYES: Hemstalk, Selby, Thorsted, Unger

NOES: None

ABSENT: Walter

ABSTAINED: None



Jean Hemstalk, President
Board of Directors

ATTEST:



Casey Prunchak, Secretary

AGREEMENT TO
SUBMIT PLAN TO LAFCO TO
DISSOLVE TRWD
AND TO FORM A
NEW COUNTY WATER DISTRICT AS
A SUCCESSOR TO TRWD AND ITS
WATER AND SEWER SYSTEMS;
AND TO TRANSFER COUNTY'S TUOLUMNE WATER SYSTEMS
AND RELATED ASSETS TO THE NEW DISTRICT

THIS AGREEMENT is entered into by and between the COUNTY OF TUOLUMNE and the TUOLUMNE REGIONAL WATER DISTRICT as of the 10th day of September, 1991.

RECITALS

A. Tuolumne County derives its principal water supply from the South Fork Stanislaus River, and the water rights therefor have been dedicated to and used by the area since the last century, as evidenced by the 1929 adjudication of the water rights on the South Fork Stanislaus, and by the use of South Fork water since that date.

B. The Tuolumne Water System has been the principal water supply system to provide such water to Tuolumne County. The County of Tuolumne (County) acquired a portion of the Tuolumne Water System (not including the Main Tuolumne Canal, Lyons Dam, and Phoenix Powerhouse), from Pacific Gas and Electric Company in 1984, together with the right to receive, under its June 3, 1983 Purchase Agreement, certain quantities of free water from the South Fork Stanislaus Main Tuolumne Canal, and the right to receive additional quantities of water upon payment to PG&E.

C. Tuolumne Regional Water District, formerly Tuolumne County Water District No. 2, was formed in 1947 by vote of the people. The District owns and operates several domestic water supply systems in Tuolumne County, some of which take their raw water supply from ditches of the Tuolumne Water System. A map showing the boundaries of the District is attached hereto as Exhibit D.

D. Tuolumne Regional Water District (hereinafter TRWD) also owns and operates the Regional Sewer System (sometimes known as the North Tuolumne Basin Wastewater System), which provides the collection, treatment and disposal of sewage and waste water from a large portion of the inhabited areas in Tuolumne County.

E. Both the County and TRWD have interests in hydroelectric projects: County of Tuolumne as a participant under its Clavey River Project Participation Agreement with Turlock Irrigation District dated March 13, 1990, a pump facility drawing water from New Melones Reservoir being constructed under agreement with Sonora Mining Corporation, together with an interest in several other small hydro sites; and TRWD as a participant in the Griswold Hydroelectric Project with Tranquillity Irrigation District and Calaveras County Water District.

F. The governing Boards of the County and of TRWD have resolved to pursue a consolidation of the water, sewer and hydroelectric enterprises of the two entities, pursuant to this Agreement, which provides for:

(1) Submission of a joint proposal to the Tuolumne County Local Agency Formation Commission (LAFCO) to dissolve TRWD and to create a new successor district, upon approval by the voters, which new district would succeed to all assets and liabilities of TRWD; and

(2) The County transferring its water systems and hydroelectric power interests and assets, and related liabilities, to the new district.

G. The Boards of both entities desire to provide and secure to the inhabitants and property owners served by the respective water systems and sewer systems, the greatest possible efficient development, use, conservation of water and disposal of wastewater that may be accomplished economically, and to consolidate said utility systems to eliminate any wasteful duplication and to secure the maximum possible in economy and efficiency of administration.

NOW THEREFORE, THE COUNTY OF TUOLUMNE and the TUOLUMNE REGIONAL WATER DISTRICT agree as follows:

1. Agreement to Consolidate. The parties hereto agree to carry out a plan to consolidate the water and sewer systems of TRWD, the water assets of County, and the hydroelectric enterprises of the two entities, as hereinafter set forth.

2. The Procedure. Each of the parties shall jointly adopt a resolution to submit and shall submit to the Tuolumne County Local Agency Formation Commission (LAFCO) an application for a reorganization (under the Cortese-Knox Local Government Reorganization Act of 1985

Government Code Sections 56000-57500), to dissolve TRWD and form a new district under the County Water District law (Division 12 Sections 30000-33554 of the Water Code) to succeed TRWD, subject to the approval of the voters.

a. The boundaries of the successor district shall include all of the territory within TRWD, plus the territories within Scenic View Tracts Nos. 1 and 2 and within Mi-Wuk Village that are now excluded from TRWD.

b. LAFCO shall provide, as a condition of the reorganization order, that confirmation shall be attained at the election only if a majority of the votes cast within the boundaries of TRWD are in favor of the reorganization.

c. The question to be submitted to the voters at the election shall be in substantially the following form, pursuant Sections 57133 and 57134 of the Government Code:

"Shall the order adopted on February 2, 1992 by the Board of Supervisors ordering a reorganization affecting the Tuolumne Regional Water District and providing for dissolution of TRWD

and forming a new county water district, to include all of the territory of TRWD plus the territory of Scenic View and Mi-Wuk Village not now within TRWD, and providing for the transfer of the water system and hydroelectric assets of Tuolumne County to the new District, be confirmed, subject to the terms and conditions specified in the order"?

3. Transfer of TRWD Assets and Liabilities to New District. The terms and conditions of such reorganization shall provide that if TRWD is dissolved and the new successor district is formed, all of the existing assets and liabilities of TRWD shall be transferred to the new district. By way of general description, these include, but are not limited to, the assets and liabilities described in the most current year-end Audit Report shown in Exhibit A attached hereto, and as may be modified by on-going operation of the District.

4. Transfer of Tuolumne County Water Systems and Hydroelectric Properties and Assets to New District. County agrees that if TRWD is dissolved and the new successor district is formed, that the following assets and properties of County shall be transferred and/or assigned to the new district:

a. The County's Tuolumne water properties, its Clavey River hydroelectric assets, and any other water and hydroelectric interests of the County; and

b. All contracts pertaining to such properties and assets, and all liabilities and obligations related thereto. By way of general description, these include, but are not limited to, the assets and liabilities described in the most current year-end Audit Report shown in Exhibit B attached hereto, and as may be modified by on-going operation of the County's Tuolumne Water System.

County agrees to authorize the execution of a conveyance and transfer in substantially the form attached hereto as Exhibit C, for delivery to the new district upon its formation. The transfers and assignments shall be for no consideration, except that the liability for the obligations of the County that pertain to such properties shall be transferred to the new district. The parties agree that LAFCO can provide that the dissolution of TRWD and formation of the new district shall be conditioned upon the transfer of said assets, properties, liabilities and obligations of the County to the new district. County agrees to cooperate with and to assist the new district following such transfer to assure that the objects of the consolidation and this Agreement are carried out and achieved.

5. Transfer of Tax Revenues (Gov. Code § 56842). The tax revenues now allocated to TRWD shall be allocated to the new district upon its formation, pursuant to Sections 56842 (d) and (e) of the Government Code.

6. Gann Appropriations Limit of New District (Gov. Code § 56842.5). The parties recommend that the initial annual appropriations limit of the new district shall be, subject to the approval of the voters, not

less than \$1,223,116 times the approved weighted growth factor for fiscal year 1991-92.

7. Plan to Provide Services. The plan for providing services, which must accompany any resolution of application to LAFCO for a reorganization under Gov. Code 56653, is as follows:

a. The services to be immediately provided and extended in the territory of the new district are the water and sewer services currently being provided by the County and by TRWD within such territory. Thereafter such services shall be as from time to time extended or expanded as required. Such services shall further include any additional services that can be provided by a county water district. The services will be provided from all revenue sources available to the new district, including water and sewer charges, taxes and any other available sources of revenues.

b. No improvement or upgrading of structures, roads, sewer or water facilities or other conditions would be imposed or required within the new district if the reorganization is completed. County and TRWD have attached as Exhibits E and F hereto a disclosure of current capital improvement projects under consideration by both Agencies including financial estimates and planned methods and proposed sources of repayment. Said capital improvement projects are disclosed for information and do not bind either the County, TRWD, or the new district to their execution.

c. Rates, regulations, policies and procedures in existence immediately prior to the effective date of the new district for the areas and customers served by both County and TRWD shall continue until changed by action of the Board of Directors of the newly created district.

d. The Auditor/Controller/Treasurer and billing functions of the new district shall be executed by TRWD's Auditor/Controller. Following the Consolidation vote, but prior to the effective date of the new district, County will transfer or assign all financial assets, billing data base, accounts receivable, and fixed assets accountability to the custody of TRWD's Auditor/Controller who shall thereafter become accountable therefore to the new district.

8. Provisions Pertaining to the Personnel of the Two Entities.

a. Employment Status: All regular and probationary employees of Tuolumne Water Systems and TRWD extant on the day prior to the effective date of consolidation shall become employees of the new district if formed.

b. Compensation: Employees of the new district shall be compensated in base pay at a rate not less than compensation received from County or TRWD on the day prior to the effective date of consolidation.

c. Seniority: Employee seniority in the new district shall be established by the date of hire in County or TRWD employment.

d. Retirement: Employees of the new district shall have a retirement benefit in PERS with each provision of existing County or TRWD PERS contracts being provided for all employees under the new district.

e. Health Benefits: All existing health benefits of both Tuolumne Water Systems and TRWD employees and retirees in effect on the day prior to the effective date of consolidation shall be continued under the provisions of COBRA until replaced in-kind by the new district. Funds for payment of COBRA premiums shall be approved and reserved by County and TRWD for their respective employees prior to each entity's funds being transferred to the new district.

f. Accruals: Vacation, sick leave, and holiday accruals of each employee of Tuolumne Water Systems and TRWD on the day prior to the effective date of consolidation shall be fully funded in a reserve account by County and TRWD for their respective employees prior to each entity's funds being transferred to the new district. Within the parameters of existing benefit programs, County and TRWD will offer each of its respective employees the choice of cashing out accrued vacation, accrued sick leave, and any accrued holidays, or, the County and TRWD shall fund any such accruals not cashed out as stated above.

g. Representation: After formation of the new District, employees shall have the right to vote on the choice of a bargaining unit for labor representation if so desired.

h. Transition: On the effective date of the new district all employees of both County and TRWD will retain their current positions and reporting relationships except that the County Utilities Director and the TRWD General Manager shall report to the new Board. It is expected that the new Board will approve an integrated organization plan and select a new General Manager early in its tenure.

9. Third Party Beneficiaries. County and TRWD further agree that this Agreement and its obligation to transfer the County-owned and TRWD-owned properties and assets herein provided for is intended for the benefit of the new district and of all residents and property owners therein, each of whom are a beneficiary of this provision, and that the new district and any of said persons shall have the right to specifically enforce this provision; and that in the event of any legal action by any of such beneficiaries to enforce this provision, such persons shall be entitled to recover reasonable attorneys fees incurred in such legal action.

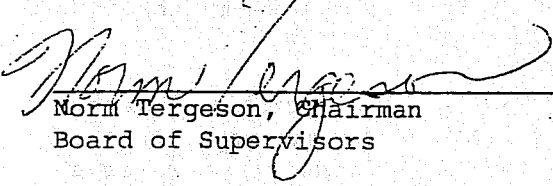
10. Right of Termination. In the event that the plan of and the terms for the proposed consolidation, as set forth herein, are significantly altered in the LAFCO process, in the opinion of either party to this Agreement, that party shall have the right to withdraw or modify its support for the proposed consolidation.

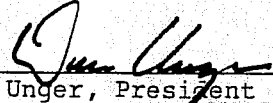
11. Sharing Costs of Consolidation Proceedings. Administrative costs incurred internally by County and TRWD shall be borne by the incurring party. External hard costs such as LAFCO and state fees shall be paid 50-50 by both parties.

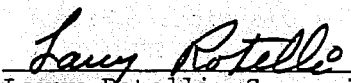
12. Effective Date of New District. The parties objective is that upon a positive vote supporting consolidation in June 1992, the new district shall become effective July 1, 1992.

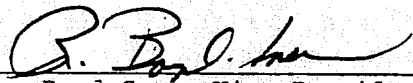
COUNTY OF TUOLUMNE

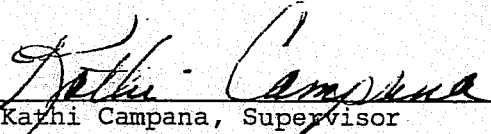
TUOLUMNE REGIONAL WATER DISTRICT

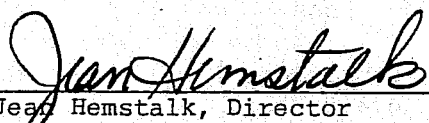

Norm Tergeson, Chairman
Board of Supervisors

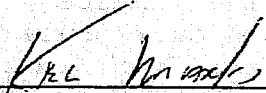

Dan Unger, President
Board of Directors, TRWD

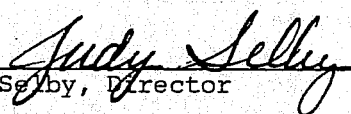

Larry Rotelli, Supervisor
District 1

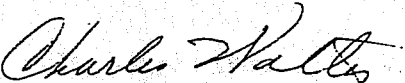

Ron Boyd-Snee, Vice President
Board of Directors, TRWD

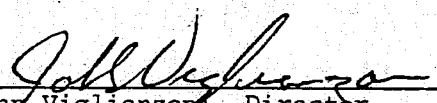

Kathy Campana, Supervisor
District 2


Jean Hemstall, Director
TRWD

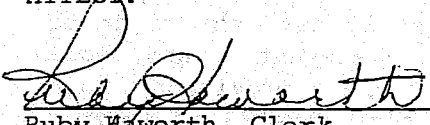

Ken Marks, Supervisor
District 3


Judy Selby, Director
TRWD



Charles Walter, Supervisor
District 5


John Viglienzoni, Director
TRWD

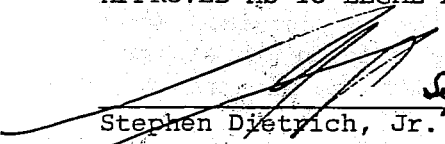
ATTEST:

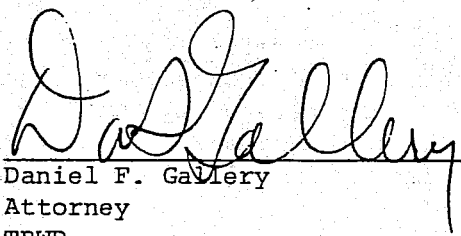

Ruby Haworth, Clerk
Board Of Supervisors

ATTEST:


Casey Prunchak, Secretary
Board of Directors, TRWD

APPROVED AS TO LEGAL FORM:


Stephen Dietrich, Jr.
County Counsel
County of Tuolumne


Daniel F. Gallery
Attorney
TRWD